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| Russell R Stolle Huntsman Corporation PO Box 15730 Austin, TX 78761 | | | EXAMINER METZMAIER, DANIEL S | |
| | | | ART UNIT 1712 | PAPER NUMBER |
| DATE MAILED: 07/27/2004 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/018,557

Applicant(s)

HAWKINS, JOHN

Examiner

Daniel S. Metzmaier

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claims 1-8 are pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albright & Wilson Ltd, EP 0 623 670 A2, in view of van de Pas et al, US 4,530,780, as evidenced by Derwent Abstract, AN 1983-52014k.

Albright & Wilson Ltd (page 6, lines 44 et seq) discloses aqueous based structured surfactant compositions employing a stabilizer system to deflocculate the structured surfactant system. Albright & Wilson Ltd (page 7, lines 15-17, and page 8, lines 1-3) disclose the use of monovalent electrolytes with higher polyethoxylates

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employing 7 to 80 moles of ethylene oxide per molecule. Albright & Wilson Ltd (page 8, lines 10-12) teaches alcohol ethoxylates are highly effective stabilizers for systems, which further employ other types of soluble polymers. Albright & Wilson Ltd (page 9, lines 51 et seq, particularly lines 53 and 54-58; page 12, lines 51-53; and page 13, lines 31-38) teaches the use of monovalent electrolytes with C₆₋₂₀ alkyl ethoxylates having preferably 25-75 moles, most preferably 40-55 moles, of ethyleneoxy groups per molecule. Albright & Wilson Ltd (page 11, lines 50 et seq) teaches a number of monovalent electrolytes including alkali metal chlorides and iodides among others. Albright & Wilson Ltd (page 11, lines 11-13) teaches it is often desirable to include potassium salts in the electrolyte for the advantage of reducing viscosities or increasing electrolyte concentrations.

Albright & Wilson Ltd (page 12, lines 39-41) teaches the concentrations of the nonionic stabilizers and page 13, lines 31-32) teach concentrations for the electrolytes. Said concentrations read on the concentrations of claim 3. Albright & Wilson Ltd (throughout) discloses the formation of spherulitic, L₂, and G phase structured surfactants without mention of temperature. Said temperature is concluded to be room temperature, which is below 40°C and 50°C in claims 2 and 3, respectively.

Albright & Wilson Ltd differs from the claims in the exemplified use of a water-soluble thiocyanate compound as the electrolyte.

Albright & Wilson Ltd (page 6, lines 1-27; particularly lines 22-24) discloses EP 0079646 as prior art structured surfactant compositions. The Derwent Abstract An 1983-52014k corresponds to EP 0079646 and shows said document to be a patent

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family member of van de Pas et al, US 4,530,780. The references are combinable because van de Pas et al is cited as prior art structured surfactant compositions in the Albright & Wilson Ltd reference.

van de Pas et al (abstract; page 2, lines 3-40; examples; and claims) discloses the use of alkali metal rhodanides (synonymous with alkali metal thiocyanate) as an auxiliary electrolyte in combination with other electrolytes including polyvalent, wherein said mixture advantageously improves the stability of the structured surfactants. van de Pas et al (examples) discloses nonionic surfactants, which overlap those of the Albright & Wilson Ltd reference.

These references are combinable because they teach structured surfactant compositions and compositions incorporating said surfactant systems. It would have been obvious to one of ordinary skilled in the art at the time of applicants' invention to employ mixtures of electrolytes including as the auxiliary electrolyte, water soluble thiocyanate compound, as taught in the van de Pas et al reference.

Albright & Wilson Ltd (page 17, line 8 to page 21, line 54; and examples) discloses formulating detergent compositions employing the structured surfactant stabilizers as summarized herein above. It would have been obvious to one of ordinary skilled in the art at the time of applicants' invention to employ structured surfactants in the compositions as disclosed in the Albright & Wilson Ltd reference as taught therein. The individual components and the concentrations thereof are broadly taught in the Albright & Wilson Ltd reference.

Response to Arguments

4. Applicant's arguments filed April 28, 2004 have been fully considered but they are not persuasive.

5. Applicants (page 2) assert EP 0 623 670 A2 suffers from the technical problem that the concentration of deflocculant required to deflocculate to optimum viscosity is critical within narrow limits and varies with temperature, causing separation in varied temperature environments. Applicants further assert said problem is set out at pages 4 and 5 of the instant specification. The totality of evidence in support of applicants' arguments of record is the sole example set forth at page 12 of the instant specification. Said example has specific amounts of the stabilizers. The only comparison is to similar compositions absent the alkyl polyglycoside or absent the potassium thiocyanate and/or absent the fifty mole ethoxylate and all were measured only at 30°C. Said evidence does not support applicants' assertions of unexpected results.

6. The prior art teaches the combination of the ethoxylated non-ionic surfactants reading on those claimed in combination electrolytes. Said examples excluding the disclosed electrolytes is not a proper comparison of the prior art examples and disclosure, which employs electrolyte. It is further noted, applicants state (page 12, last paragraph) applicants' inventive composition underwent heavy flocculation and rapid separation in the absence of alkyl polyglycoside. Said characterization is inconsistent with the assertion that the water-soluble thiocyanate and ethoxylated non-ionic surfactant provide unexpected properties.

7. Applicants (pages 2 and 3) assert the instant invention solves the problem of EP '670. The evidence of record does not support applicants' conclusion.

Applicants (pages 2 and 3) assert the water soluble thiocyanate is not common in the field of the present invention. The reference to van de Pas et al shows that the use of alkali metal rhodanides was known as a auxiliary electrolyte and related family member documents were cited in the EP '670 reference.

Applicants (page 3) assert EP '670 teaches the problem of flocculation may be solved by certain surfactant stabilizers as deflocculants and concentrations disclosed therein. Applicants have not shown the instantly claimed electrolytes, concentrations and/or surfactant stabilizers to be indistinct from those taught in the EP'670 in view of the van de Pas et al reference.

Applicants (page 3, first full paragraph) assert the electrolyte mentioned at page 11, lines 38-49 of EP '670 is for detergent performance and not for stability. This is not agreed. Said passage specifically refers to the structured surfactant and the relationship between the electrolyte and the surfactants to form said structured surfactant systems, which is desired for stability. Attention is directed to page 2, lines 3-6; page 4, lines 55-57; and page 6, lines 44 et seq..

8. Applicants' arguments (page 3) regarding temperature stability resulting from thiocyanate is unsupported by the evidence of record. Furthermore, applicants' statement that the addition of 19% sodium tripolyphosphate, a strong electrolyte, renders the addition of 0.5% of potassium thiocyanate irrelevant is inconsistent with applicants' assertions that the addition of thiocyanate provides unexpected results.

Assuming *arguendo* said statements of facts are correct, the claims would not be commensurate in scope with said statements.

9. Applicants (pages 4 and 5) assert the mere citation of a reference as prior art in another reference is not a bona fide grounds for combining the references for obviousness. "A prior art reference is analogous if the reference is in the field of applicant's endeavor or, if not, the reference is reasonably pertinent to the particular problem with which the inventor was concerned. In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992)." See MPEP 2141.01(a) and 2145. The secondary reference is clearly combinable and shows the state of the art that the alkali metal rhodanides are auxiliary electrolytes and an obvious functional equivalent electrolyte to those disclosed in the primary reference. A proper *prima facie* case of obviousness having been presented, applicants have not rebutted said *prima facie* case of obviousness. Said rejection is deemed proper and maintained.

10. Applicants (page 5) assert the examiner incorrect citation of rhodamide rather than rhodanide cited in the van de Pas et al reference. The examiner regrets the typo. A review of the reference clearly shows the use of alkali metal rhodanides, which are synonymous with alkali metal thiocyanate. Attention is directed to CAS registry number 540-72-7.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Metzmaier whose telephone number is (703) 308-0451. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy P. Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Daniel S. Metzmaier
Primary Examiner
Art Unit 1712

DSM